

2. On October 3 and 26, 2016, the agency issued Notices of Decision to the Petitioner informing her that BC+ benefits for herself, her husband and children would end effective November 1, 2016 due to failure to provide requested verification and income exceeding the program limit.
3. On November 1, 2016, the agency received verification of the Petitioner's earned income. Specifically, the agency received two payments from October 9, 2016 and October 23, 2016. The Petitioner's gross pay for the October 9, 2016 pay statement indicates 40 hours @ \$10/hour and tips of \$50. The gross pay for October 23, 2016 was also 40 hours @ \$10/hour and tips of \$50.
4. The Petitioner's husband's reported self-employment income from [REDACTED] was \$1,812.57/month. This was based on self-employment income report forms submitted by the Petitioner to the agency on October 25, 2016 for the months of August and September, 2016.
5. On November 2, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.
6. On November 7, 2016, the Petitioner contacted the agency to report that her husband is no longer employed with [REDACTED]. On November 8, 2016, the agency issued a request for verification of Petitioner's employment status with a due date for the information of November 11, 2016.
7. On November 17, 2016, the agency received verification that the Petitioner is no longer self-employed with [REDACTED].

DISCUSSION

The only issue presented for hearing was the possible termination of BC+ benefits for November, 2016 based on income exceeding the program limit. I note that, subsequent to the Petitioner filing her request for a hearing, a request for verification of non-financial eligibility of the Petitioner and her husband concerning their status as qualifying citizens or immigrants was made. A notice was issued to the Petitioner on November 22, 2016 regarding the agency's determination but these issues were not presented at the hearing in this matter. The Petitioner has the right to appeal the agency determination regarding those issues by filing an appeal within 45 days of the date of the agency determination.

At the hearing, the Petitioner noted that her husband was no longer employed at [REDACTED] so their income has decreased. However, the Petitioner did not report the decrease in income to the agency until November 7, 2016 and verification of his employment status was not received until November 17, 2016. The Petitioner presented no evidence at the hearing to demonstrate what her husband's actual income was for October and November, 2016. When it did receive verification on November 1, 2016, the Petitioner's household income clearly exceeded the income limit. The agency can only act on information after it receives the information. In this case, the agency acted initially to terminate BC+ benefits effective November 1, 2016 based on the Petitioner's failure to provide requested verifications. On November 7, 2016, the Petitioner called to report her husband is no longer employed. On November 17, 2016, the Petitioner submitted verification that her husband is no longer employed. However, as of the date of the hearing, the case was still pending regarding the Petitioner's non-financial eligibility for benefits for November, 2016.

Based on the evidence, I conclude the agency properly acted to terminate the Petitioner's BC+ benefits based on the Petitioner's failure to provide requested verifications by the due date and income exceeding the program limits. However, because the Petitioner reported on November 7, 2016 that her husband is no longer employed, it is possible that she will be eligible for benefits if she can provide verification of non-financial eligibility. The Petitioner has a separate hearing right regarding any determination made subsequent to the hearing in this matter. As of the date of the hearing in this matter, the agency had correctly acted to terminate the Petitioner's BC+ benefits based on a failure to provide requested verification and income exceeding the program limits and then, after receiving financial verification,

correctly pended the case for verification of non-financial eligibility. Any subsequent decision of the agency is subject to new appeal rights.

CONCLUSIONS OF LAW

The agency acted correctly in determining Petitioner's BC+ benefits.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 24th day of January, 2017

\s _____
Debra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 24, 2017.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability